

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7220

BILL NUMBER: HB 1653

NOTE PREPARED: Apr 26, 2007

BILL AMENDED: Mar 13, 2007

SUBJECT: Sexual Misconduct with an Inmate.

FIRST AUTHOR: Rep. Dembowski

FIRST SPONSOR: Sen. Rogers

BILL STATUS: Enrolled

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) *Adult Victim:* The bill makes it a Class C felony for a service provider to knowingly or intentionally engage in sexual intercourse or deviate sexual conduct with a person who is lawfully detained. (Under current law, the offense is a Class D felony.)

Juvenile Victim: The bill also makes it a Class B felony for a service provider who is at least 18 years of age to knowingly or intentionally engage in sexual intercourse or deviate sexual conduct with a lawfully detained person who is less than 18 years of age.

Effective Date: July 1, 2007.

Explanation of State Expenditures: *Adult Victim:* State expenditures would increase if an offender is incarcerated in a state prison for a longer period of time. A Class D felony is punishable by a prison term ranging between 6 months to 3 years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from 2 to 8 years. More offenders could mean increased costs to the Department of Correction (DOC). The average expenditure to house an adult offender was \$22,734 in FY 2006. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,139. The average length of stay in DOC facilities for all Class C felony offenders is approximately two years.

Background: On average between 2001 and 2005, there were three offenders a year committed to a state correctional facility for sexual misconduct, a Class D felony.

(Revised) *Juvenile Victim*: There are no data to indicate how many service providers would be convicted of sexual misconduct as a Class B felony by knowingly or intentionally engaging in sexual intercourse or deviate sexual conduct with a person who is less than 18 years old and subject to lawful detention. A Class B felony is punishable by a prison term ranging from 6 to 20 years, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,734 in FY 2006. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,139. The average length of stay in DOC facilities for all Class B felony offenders is approximately 3.7 years.

Explanation of State Revenues: *Adult Victim*: No change would likely occur in state revenue as a result of the increase in this penalty since criminal fines and court fees are the same for either Class D or C felonies.

Juvenile Victim: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Juvenile Victim*: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Adult Victim*: No additional revenues would be expected since the court fees for Class D and Class C felonies are both \$120.

Juvenile Victim: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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